

EXECUTIVE ORDER NO. 09- 07

WHEREAS, the widespread impact of the collapse of the financial market and a global economic recession have caused constantly decreasing revenue projections by the Council on Revenues that have forced the State of Hawaii to make drastic revenue and expenditure adjustments to close major budget shortfalls of unprecedented proportions; and

WHEREAS, Executive Order No. 09-05 imposes a furlough for the period September 16, 2009 through June 30, 2011 on certain Executive Branch employees; and

WHEREAS, a memorandum of agreement has been reached between State, counties, Hawaii Health Systems Corporation, the Judiciary, and the Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, allowing the imposition of up to eighteen (18) days of furlough for the current fiscal year and up to twenty-four (24) days of furlough for the 2010-2011 fiscal year; and

WHEREAS, in light of the agreement reached between the State, counties, Hawaii Health Systems Corporation, the Judiciary, and the Hawaii Government Employees Association, AFSCME, Local 152, AFL-CIO, it is appropriate to adjust the furlough in Executive Order No. 09-05, of the Executive Branch employees who are exempt from civil service and excluded from collective bargaining.

NOW, THEREFORE, I, Linda Lingle, Governor of Hawaii, pursuant to my executive authority under Articles V and VII of the Constitution of the State of Hawaii, the provisions of Chapters 37 and 89C, Hawaii Revised Statutes, and all other applicable authority, do hereby order the furlough of Executive Branch employees who are exempt from civil service and excluded from collective bargaining, except those identified in #9 and #10 below, of approximately one and three-quarter ($1\frac{3}{4}$) days per month, effective

from the period October 16, 2009 and continuing through June 30, 2010, and two (2) days per month for the period July 1, 2010 through June 30, 2011, in accordance with the following terms and conditions:

1. "Furlough" means the placement of an employee temporarily and involuntarily in a non-pay and non-duty status by the Employer because of lack of work or funds, or other non-disciplinary reasons.
2. Furloughed employees' pay will be automatically adjusted each pay period to account for the directed furlough day(s), with the pay of full-time employees, except those identified in #9 and #10 below, adjusted by the equivalent of seven (7.00) hours per pay period for the period October 16, 2009 through June 30, 2010, and eight (8) hours per pay period for the period July 1, 2010 through June 30, 2011.
3. Full-time employee pay will be automatically adjusted by eight (8) hours for each furlough day or by the appropriate fraction of one furlough day, whichever is applicable. All other employee pay will be automatically adjusted by using the employee's full-time equivalent (FTE) in computing the number of hours per furlough day (e.g., .5 FTE, .75 FTE, etc.)
4. Subject to the approval of their department head or designee, furloughed employees will have flexibility to designate by request their furlough days and may accumulate furlough days and take them in combined periods.
5. If an employee does not take the required number of furlough days during a particular month because of operational reasons, as determined by that employee's department head or designee, that shall not affect that employee's furlough pay adjustment in that month, and such employee shall take such (untaken) furlough day(s) within the same fiscal year, without any additional pay adjustment when such day or days are taken.
6. Employees who work other than a normal eight hour workday (e.g., 4 day/10-hour alternative workweek) shall be required to use vacation, compensatory time off, or work to make up the difference between the eight-hour furlough day and the actual hours the employee was scheduled to work. However, the department head or designee has the discretion to allow employees to take their entire alternative workday (e.g., ten (10) hours) as a furlough day, provided that the number of furlough hours per month for full-time employees, except Executive

Branch officials identified in Act 85, Session Laws of Hawaii 2009 (the governor, the lieutenant governor, and the department heads or executive officers and the deputies or assistants to the department heads or executive officers of: the departments of accounting and general services; agriculture; attorney general, budget and finance; business, economic development and tourism; commerce and consumer affairs; defense; Hawaiian home lands; health; human resources; development; human services; labor and industrial relations; land and natural resources; public safety; taxation; and transportation) and in #10 below, remains as set forth in this Executive Order.

7. Employees shall not be permitted to substitute vacation, sick, compensatory time-off, or any paid leave for the furlough day(s). Employees on workers' compensation leave shall have their supplemental pay benefits (i.e., sick/vacation pay) adjusted to account for the furlough as may be necessary.
8. This Executive Order does not assure continued employment during the furlough period specified herein. Employees who are exempt from civil service and excluded from collective bargaining are "at-will" employees whose appointments may be extended pursuant to applicable policies.
9. This Executive Order does not apply to employees of: 1) the Department of Education/ Board of Education, including employees of public charter schools and the Hawaii State Public Library System; 2) the University of Hawaii and the Research Corporation of the University of Hawaii; 3) the Hawaii Health Systems Corporation; 4) those employees covered by Executive Order 09-06; 5) certain part-time intermittent employees (e.g. Aloha Stadium part-time intermittent exempt employees); 6) all Exempt Excluded employees of the Office of Elections; and 7) Exempt Excluded employees whom I may determine and designate that should not be furloughed, should have furloughs of less than the amount described herein, or should not be furloughed during certain periods.
10. Notwithstanding the foregoing, the number of furlough days for employees identified in this #10 shall be one day per month, commencing May 16, 2010 and continuing through June 30, 2011. Employees covered by this #10 are those employees who are exempt from civil service and excluded from collective bargaining:
 - (a) identified as position numbers 100680, 100694, 102616, 102258, 100545, 100954, 100955, 100953, 102462, 101981, 100978, 100980, 100979, 100353, 100354,

100366, 100449, 100450, 100451, 108002, 104167,
118036, 102005, 101611, 100690 and 106012;

and

- (b) whose incumbents' annual salaries have been reduced as a consequence of salary adjustments imposed by Act 85, Session Laws of Hawaii 2009.

The pay of employees described in this #10, will be automatically adjusted each pay period to account for the directed furlough day(s), with the pay of full-time employees adjusted by the equivalent of one-half day (i.e., four (4) hours) per pay period. Employees who work other than a normal eight hour workday (e.g., 4 day/10-hour alternative workweek) shall be required to use vacation, compensatory time off, or work to make up the difference between the eight-hour furlough day and the actual hours the employee was scheduled to work. However, the department head has the discretion to allow employees to take their entire alternative workday (e.g., ten (10) hours) as a furlough day, provided that the number of furlough hours per month for full-time employees remains at eight (8) hours.

Employees who are exempt from civil service and excluded from collective bargaining that do not satisfy both (a) and (b) above shall be subject to the number of furlough days as set forth in this Executive Order commencing on October 16, 2009.

- 11. The Director of Human Resources Development shall be responsible for the uniform administration of these adjustments and is authorized to make any interpretations concerning the applicability of these adjustments to all State officers and employees of the State government executive branch who are exempt from civil service and excluded from collective bargaining.

IT IS FURTHER ORDERED that the furloughs ordered herein shall not cause or be deemed to cause:

- 1. A break of continued service in a furloughed employee's employment;
- 2. A decrease in the Employer's contribution to the Hawaii Employer-Union Health Benefits Trust Fund;

3. A change in the amount of vacation or sick leave earned by furloughed employees; or
4. A decrease in the furloughed employee's length of service for purposes of the employee's retirement and deferred compensation plans.

IT IS FURTHER ORDERED that this Executive Order is not intended to create, and does not create, any rights or benefits, whether substantive or procedural, or enforceable at law or in equity, against the State of Hawaii or its agencies, departments, entities, officers, employees, or any other person; and

IT IS FURTHER ORDERED that these provisions are subject to amendment by Executive Order.

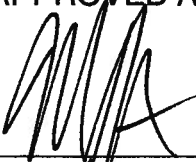
IT IS FURTHER ORDERED that Executive Order No. 09-05 is hereby rescinded effective as of October 16, 2009.

DONE at the State Capitol, Honolulu,
State of Hawaii, this 22nd day of
October, 2009.


LINDA LINGLE
Governor of Hawaii



APPROVED AS TO FORM:


MARK J. BENNETT
Attorney General